SB 254 & HB 574

Restricts Constitutional Rights in an Effort to Protect Animal Abusers

Similar legislation has been struck down by federal courts as being an infringement on free speech

1.) Seeks to protect substandard agricultural operations, including cruel puppy mills, from legal actions by limiting who can testify regarding conditions or actions occurring on such operations – at both criminal and civil trials. Infringes on the role of the Judiciary by restricting testimony at criminal and civil trials. (Sec. 4.)

Why are you denying the Judiciary the authority to determine what evidence and testimony is relevant at a civil or criminal trial?

What other industry seeks to void constitutional rights in an effort to protect itself from criminal and civil actions?

2.) Restricts who can testify at a criminal or civil trial about conditions or events at an agricultural operation even if witnessed by someone legally present on neighboring property. (Sec. 4. (4))

What is the purpose of restricting someone who is legally on the property of another person from testifying to what they observed at an agricultural operation?

Are you aware that if a person, who is legally on private property, witnessed a crime against the farmer or the farmer's property, the witness could not testify as a witness or identify the perpetrator? While intended to prohibit testimony against farmers, it also prevents testimony in support of farmers who are victims of crime.

3.) Such restrictions would also apply to state highway patrol officers, municipal police officers, and animal control officers. If a complaint was made about animal abuse or neglect, or about any criminal offense, these officers of the law would not be allowed to testify or offer evidence from what they observed from neighboring property, even with the consent of the neighboring landowner.

Why are we tying the hands of law enforcement officers or animal control officers when responding to a complaint or investigating a crime?

4.) Prohibits county and municipal officials from conducting inspections of agricultural operations and dog breeders.

What is the purpose of denying local government officials the ability to ensure the public health, the protection of the environment, and the protection of animals?

5.) By restricting who can testify at a civil trial concerning an agricultural operation, this legislation violates Article 1, Section 14 of the Constitution of Missouri which guarantees the right to open courts to all people. (Sec. 4.)

Regardless of a person's actions, even if despicable or criminal conduct, the person still has a constitutional right to the Courts. What other industry in the state is seeking to eliminate rights guaranteed under the constitution in order to protect themselves from criticism?

6.) Could preclude "expert witness" testimony since such persons would not necessarily be on the grounds of the facilities and therefore could not testify as to "any condition or event at the grounds or facilities." (Sec. 4.)

Again, what is the purpose of denying the Judiciary the authority to determine what evidence and what testimony is relevant in a civil or criminal trial?

7.) Court could not order an inspection of the premises by a neutral third party, an opposing party's expert, or anyone else – including himself or herself for a judicial site visit – over the owner's objection. (Sec. 4.) Court would lose a fair amount of power to grant discovery to parties suing agricultural facilities, whether that is the prosecutor, a civil enforcement attorney, or a private party in a consumer protection or nuisance suit.

Why is the Legislature infringing on the rights of the Judiciary?

8.) Could hinder consumer lawsuits – purchaser of cheese with listeria or a sick dog with Parvo originating from an agricultural operation would be limited from civil action if purchaser were not on the premises and therefore cannot testify "regarding any condition at the facility." (Sec. 4.)

What other industry is seeking protections from consumer lawsuits by denying citizens the right to testify "regarding any conditions" of the business?

9.) Grants authority to the county sheriff to inspect agricultural operations. Sheriffs have no scope of influence or authority over regulations promulgated by governmental agencies. Yet, the legislation prohibits county and municipal officials, who routinely regulate agricultural operations, from conducting inspections.

What is the purpose of authorizing a local sheriff to conduct inspections of agricultural facilities and denying such authorization to local governmental officials who have the knowledge, expertise and the authority to regulate?

10.) One intent of this legislation, as stated by the House sponsor, is to authorize employees of the Missouri Department of Agriculture (MDA) to conduct inspections of agricultural operations beyond the authority currently specified to in law.

What is the purpose of granting such broad authority and discretion to MDA and Department of Natural Resources when conducting inspections on agricultural facilities? If the intent is to expand the authority of these agencies, why is the extended authority not specifically spelled out to what is pertinent for each agency to inspect? This seems especially critical when the stated intent of the legislation is to expand the authority of MDA.

11.) The original intent of this legislation was to ensure that no entity has the authority to enforce or carry out the laws or administrative rules of a state <u>other than Missouri</u> at a Missouri agricultural operation.

Why not pass language that was in the original SB 254 that prohibited inspections for the purpose of enforcing or carrying out the laws or administrative rules of a state other than Missouri without permission of the owner? Instead of achieving this goal, HB 594 and the

substitute for SB 254 greatly overreach with unintended consequences and have serious constitutional problems.

12.) Stiff criminal penalties already exist for misrepresenting oneself in order to trespass onto an animal production facility – Class A Misdemeanor, and if damages, it can be a felony up to a Class B felony. There are existing criminal and civil actions that can be pursued against unauthorized persons but the Legislature cannot limit their right to testify in court. (See Missouri Revised Statutes 578.405 & 578.013)

There are already strong laws protecting agricultural operations, why do we need to deny a person's right to court and deny constitutionally protected rights? Why do we need to impede law enforcement by restricting testimony from witnesses to criminal offenses?

13.) Similar legislation that seeks to deny full access to testimony and evidence of wrongdoing on agricultural operations has been struck down by the federal courts in every state in which they were challenged including Iowa, Kansas, Idaho, Utah, Wyoming, and North Carolina. These laws were rejected by federal courts on free-speech grounds under the First Amendment.

Why should we pass legislation that has an extensive track record of being unconstitutional at the federal level when there are already laws that effectively address the concerns of the supporters of this legislation?